

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
06-CV-1709(JMR/FLN)

Ryan Wehner)
)
 v.) ORDER
)
 Linvatech Corporation et al.)

Defendants' object to the Report and Recommendation, issued December 4, 2007, by the Honorable Franklin L. Noel, United States Magistrate Judge. The Magistrate recommended that defendants' motion for partial summary judgment be granted in part and denied in part, and that defendants' Daubert motion be denied.

Based upon a de novo review of the record herein, the Court adopts the Magistrate's Report and Recommendation.

Accordingly, IT IS ORDERED that defendants' motion for partial summary judgment [Docket No. 86] is granted in part and denied in part, as follows:

1. To the extent defendants seek summary judgment on Count VI, the motion is granted.

2. To the extent defendants seek summary judgment on Count V, the motion is granted.

3. To the extent defendants seek summary judgment on the failure to warn claims in Counts 1 and IV, the motion is denied.

4. To the extent defendants seek summary judgment on all claims with respect to Linvatec Corporation, the motion is granted.

5. To the extent defendants seek summary judgment on all

claims with respect to ConMed, the motion is denied.

IT IS FURTHER ORDERED that defendants' Daubert motion to exclude portions of Dr. Michael Q. Freehill's testimony [Docket No. 93] is denied.

Dated: February 20th, 2008

s/ James M. Rosenbaum
JAMES M. ROSENBAUM
United States Chief District Judge